

## **REMARKS**

Claims 1 and 3-8 are pending and under consideration in the above-identified application. Claim 2 was previously cancelled in a response to an Office Action dated October 9, 2008. Claims 9-18 were previously cancelled in a supplemental amendment to the response filed on January 8, 2008.

In the Final Office Action dated April 17, 2008, the Examiner rejected claims 1 and 3-8.

With this Amendment, claims 1 and 5 were amended and claim 4 was cancelled. No new matter has been introduced as a result of the amendment. Support for the amendments can be found in the Specification on pages 20-22.

The Examiner stated that the information disclosure statement (IDS) filed on January 25, 2008 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of relevance of each patent listed that is not in the English language. Applicant disagrees.

As stated in the IDS transmittal letter, "These references were cited in an Office Action issued on October 5, 2007, in connection with Japanese patent application no. JP2004-026572." JP2004-026572 is the priority application for the present application. Applicant is bringing it to the attention of the Examiner references located and identified by the Japanese Patent Office in connection with its examination of a related application directed to the same invention. The relevance could not be clearer.

Additionally, Applicant submitted full English translations of each of the four foreign patents listed on the PTO-SB08A form. These full English translations are presently available on PAIR and reflect a filing date that is the same as the IDS, namely January 25, 2008. Accordingly, Applicant respectfully requests that the references filed be considered.

**I. 35 U.S.C. § 112 Indefiniteness Rejection of Claims**

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant amended the claim pursuant to the Examiner's suggestion. Accordingly, the rejection is now moot. As such, Applicant respectfully requests that the above rejection be withdrawn.

**II. 35 U.S.C. § 102 Anticipation Rejection of Claims**

Claims 1, 3, 4 and 6-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sonoda, et al. (U.S. Patent Application 2002/0028389). Applicant respectfully traverses this rejection.

Claim 1 requires an anode active material layer that is present when the battery is charged and dissolved during battery discharge. Specifically, when the battery is charged, the active material layer is made of lithium ions extracted from the cathode and deposited on a surface of the current collector as lithium metal through the electrolyte. The active material layer is dissolved from the surface of the anode current collector during battery discharge when the lithium metal is eluted from the anode active material layer as lithium ions and inserted in said cathode through the electrolytic solution.

Sonoda et al. teaches an anode comprising a negative electrode mixture, which contains a negative active material, a conductive agent and a binder, on the surface of a current collector. Sonoda et al., Paragraph [0043]. However, Sonoda et al. does not teach or even fairly suggest an active material layer on the anode current collector that is formed from lithium ions extracted from the cathode and deposited on the surface of the current collector as lithium metal when the battery is charged. Furthermore, Sonoda et al. does not teach or even fairly suggest that the

anode active material is dissolved from the surface of the anode current collector during battery discharge when the lithium metal is eluted from the anode active material layer as lithium ions and inserted in said cathode through the electrolytic solution. As such, Sonoda et al. does not teach or even fairly suggest all the required elements of independent claim 1. As such, claim 1 is patentable over the cited reference as are the remaining dependant claims for at least the same reasons. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

### **III. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sonoda, et al. Applicant respectfully traverses this rejection.

Sonoda et al. teaches that too much moisture in an electrolyte containing  $\text{LiPF}_6$  causes the  $\text{LiPF}_6$  to decompose. Sonoda et al., Paragraph [0004]. As discussed above, Sonoda et al. does not teach or even fairly suggest all the required elements of independent claim 1. As such, it would not have been obvious to require a moisture content in the electrolyte to be 100 ppm in the battery as further required by dependent claim 5. Thus, claim 5 is patentable over Sonoda et al. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

**IV. Conclusion**

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

Dated: June 5, 2008

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